

DATE

Renda T. Fontenot
Office Manager
Savannah Claire, Inc.
P.O. Box 409
Eunice, Louisiana 70535

**RE: Louisiana Board of Ethics Docket No. 2021-1059
Advisory Opinion**

Dear Ms. Fontenot:

The Louisiana Board of Ethics ("Board"), at its February 4, 2022 meeting, considered your request for an advisory opinion as to whether the Louisiana Code of Governmental Ethics ("Code") would prohibit Representative Phillip R. DeVillier's company, Savannah Claire, Inc., from participating in the Emergency Rental Assistance Program ("ERAP").

FACTS PROVIDED

You are the Office Manager for Savannah Claire, Inc. which is a corporation organized under the laws of the State of Louisiana and owned by Rep. Phillip R. DeVillier. (a member of the Louisiana House of Representatives). Savannah Claire, Inc. is a rental company with several rental properties. Rep. DeVillier would like to participate in the ERAP.

The Louisiana state-administered ERAP program, funded by the U.S. Treasury, uses a two-pronged implementation approach for meeting the continued needs of renters and landlords impacted by the COVID-19 pandemic. The Louisiana Housing Corporation, in partnership with the State of Louisiana Office of Community Development, is administering the program in 57 Louisiana parishes with a funding allocation of \$161 million per the recent federal COVID relief legislation. Both renters and landlords within the fifty-seven (57) parishes where the Louisiana ERAP is administered can apply.

LAW

La. R.S. 42:1113(C) provides that no legislator, member of his immediate family, or legal entity in which he has a controlling interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction involving the legislator's agency.

La. R.S. 42:1113(D)(1)(a)(ii)(aa) provides that legislators are prohibited from entering into contracts with state government.

La. R.S. 42:1113(D)(1)(c)(ii) provides an exception to the prohibition against legislators entering into contracts with state government where [the] contract is for housing, medical treatment, retirement benefits, or insurance benefits provided on the same terms and conditions available to similarly situated persons.

La. R.S. 42:1113(D)(1)(c)(iii) provides an exception to the prohibition against legislators entering into contract with state government where [the] contract is for the provision of public assistance benefits, including but not limited to subsidies for agriculture, aquaculture, forestry, soil and water conservation, educational scholarships, grants and subsidies, or guaranteed student loans, provided that such benefits are available to similarly situated persons.

La. R.S. 42:1114.3(A)(1) provides that “No statewide elected official, legislator, commissioner of administration, or chief of staff or executive counsel to the governor, nor the spouse of any such person, nor any corporation, partnership, or other legal entity in which such a person owns an interest of greater than five percent, except a publicly traded corporation or a legal entity in which the person owns a passive ownership interest that is the result of participation in a federally approved program of employee ownership, shall enter into any contract to which all of the following apply: (a) The contract is directed to addressing needs directly emanating from a gubernatorially declared disaster or emergency; and, (b) The person knows or reasonably should know that the contract or subcontract is funded or reimbursed in whole or in part with federal funds distributed, paid, or allocated to or by the state or a state department, agency, or official.

La. R.S. 42:1114.3(A)(1)(c)(iii) provides an exception to the La. R.S. 42:1114.3(A)(1) where [the] contract is for housing, medical treatment, retirement benefits, or insurance benefits provided on the same terms and conditions available to similarly situated persons.

ANALYSIS

La. R.S. 42:1113(C) provides that no legislator or legal entity in which he has a controlling interest shall bid on or enter into or be in any way interested in any contract, subcontract, or other transaction involving the legislator's agency. The ERAP is administered by the Louisiana Housing Corporation, in partnership with the State of Louisiana Office of Community Development. Participation in the ERAP does not constitute a contract, subcontract, or other transaction with Rep. DeVillier's agency – the Louisiana House of Representatives. Additionally, while administered by the Louisiana Housing Corporation, in partnership with the State of Louisiana Office of Community Development, an application approved under ERAP would be a contract with the federal government, not state government. Therefore, participation in ERAP is not a violation of La. R.S. 42:1113(D)(1)(a)(i)(aa). However, even if Savannah Claire was required to sign a contract with the Louisiana Housing Corporation, in partnership with the State of Louisiana Office of Community Development, La. R.S. 42:1113(D)(1)(c)(iii) provides an exception to the prohibition where the contract is for the provision of

housing benefits, as long as the same terms and conditions which apply to similarly situated persons, would apply to Rep. DeVillier/Savannah Claire.

Additionally, La. R.S. 42:1114.3(A)(1) prohibits legislators and legal entities, in which they own greater than 5%, from entering into any contract for the participation in a federally-approved program where (a) the contract is directed to addressing needs directly emanating from a gubernatorially-declared disaster or emergency; and, (b) the person knows or reasonably should know that the contract or subcontract is funded or reimbursed in whole or in part with federal funds distributed, paid, or allocated to or by the state or a state department, agency, or official. Here, while the contract would meet prong (b) of the statute, prong (a) is not met. The ERAP does not emanate from Governor Edwards' declaration of an emergency related to COVID-19. The ERAP emanates from an act of the U.S. Congress and a gubernatorially declared emergency is not a prerequisite to funds being distributed to Louisiana. However, even if the general prohibition of La. R.S. 42:1114.3(A)(1) applied, La. R.S. 42:1114.3(A)(1)(c)(iii), La. R.S. 42:1114.3(A)(1)(c)(iii) provides an exception to the prohibition where the contract is for the provision of housing benefits, as long as the same terms and conditions which apply to similarly situated persons, would apply to Rep. DeVillier/Savannah Claire.

CONCLUSION

The Board concluded, and instructed me to inform you, that based on the facts presented, the Code does not prohibit Rep. DeVillier, and by extension Savannah Claire, from participating in ERAP.

This advisory opinion is based solely on the facts as set forth herein. Changes to the facts as presented may result in a different application of the provisions of the Louisiana Code of Governmental Ethics. The Board issues no opinion as to past conduct or as to laws other than the Louisiana Code of Governmental Ethics, the Campaign Finance Disclosure Act, the Lobbyist Disclosure Act, and the conflict of interest provisions contained in the Louisiana Gaming Control Law. If you have any questions, please contact me at (800) 842-6630 or (225) 219-5600.

Sincerely,

LOUISIANA BOARD OF ETHICS

LaToya D. Jordan
For the Board